

ROBYN RENEE ESSEX,
et al.,
Plaintiffs,

v.

KRIS W. KOBACH,
Kansas Secretary of State,

Defendant,

and

THE STATE OF KANSAS *ex rel.*
DEREK SCHMIDT, Attorney
General of Kansas,

Intervenor / Defendant.

Case No. 12-CV-4046-KHV-JWL

COMES NOW Intervenor / Defendant State of Kansas, on relation of Kansas Attorney General Derek Schmidt [State], by and through the undersigned counsel of record, and Answers the Complaint of Intervenor / Plaintiff Frank Beer.

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2. Complaint paragraphs 2, 3, 6, 7, 9 (2010 Census as adjusted by the Kansas Secretary of State) are admitted.

3. Complaint paragraph 4: the first sentence is admitted. The second sentence is denied. No Kansas voter has yet been denied equal protection of the law as no election has yet been held.

4. Complaint paragraph 5 requires no response.

5. Complaint paragraph 8: is denied. No Kansas voter has yet been denied the right to have an equal vote as no election has been held.

6. Complaint paragraph 10 is denied. This federal panel and the Kansas Supreme Court both have jurisdiction to order constitutional redistricting legislation. Any violation of the voters' constitutional rights is remote and prospective.

7. Complaint paragraph 11 is admitted in part and denied in part. A justiciable controversy exists, but timely action by a proper Court would prevent violation of any Kansas voter's civil rights in the 2012 elections prior to any injury. To date, no injury has occurred.

8. Any allegation not expressly addressed is hereby denied.

PRAYER FOR RELIEF

WHEREFORE, Intervenor the State of Kansas, on the relation of Attorney General Derek Schmidt, prays the Court to order the following relief:

1. Pursuant to 28 U.S.C. § 2284(a), convene a three-judge panel to adjudicate this matter;

2. Issue a permanent injunction and judgment decreeing that the plan of legislative apportionment established in 2002 by the Kansas Legislature in Chapter 4 of the Kansas Statutes

may not hereafter be used as a valid plan of legislative apportionment, congressional apportionment or state board of education apportionment;

3. Issue an order including a valid plan of legislative reapportionment, congressional reapportionment and state board of education reapportionment with a level of deviation that is clearly within the parameters of the United States Constitution and United States Supreme Court case law;

4. Hold in abeyance consideration of any award of attorneys fees or costs pending further proceedings on this issue; and

5. Grant such other and further relief as this Court deems just and equitable.

Respectfully submitted,

OFFICE OF ATTORNEY GENERAL
DEREK SCHMIDT

s/ Jeffrey A. Chanay

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CERTIFICATE OF SERVICE

I hereby certify that on May 24, 2012, I electronically filed the foregoing Answer with the clerk of the court by using CM/ECF system which will send a notice of electronic filing to all counsel of record.

s/ Jeffrey A. Chanay
Jeffrey A. Chanay
Deputy Attorney General, Civil Litigation Division